

MAY 26 2016

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May 23, 2016

VIA CERTIFIED MAIL

Harold K. Hilfiker, President
and Agent for Service of Process
Hilfiker Pipe Company
1902 Hilfiker Lane
Eureka, CA 95503

Kerry R. Glavich
Administrative Coordinator
Hilfiker Pipe Company
3900 Broadway
Eureka, CA 95503

**Re: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE
FEDERAL WATER POLLUTION CONTROL ACT ("CLEAN WATER ACT")
(33 U.S.C. §§ 1251 *et seq.*)**

Dear Messrs. Hilfiker and Glavich:

This firm represents Californians for Alternatives to Toxics ("CATs") in regard to violations of the Clean Water Act ("the Act") occurring at Hilfiker Pipe Company's ("HPC") facility located at 3900 Broadway Street and 1902 Hilfiker Lane, in Eureka, California (the "Facility"). This letter is being sent to you as the responsible owners, officers and/or operators of the Facility. Unless otherwise noted, Harold K. Hilfiker, Kerry R. Glavich, and Hilfiker Pipe Company shall hereinafter be collectively referred to as "HPC." CATs is a non-profit association dedicated to the preservation, protection and defense of the environment, wildlife and natural resources of California waters, including the waters into which HPC discharges polluted storm water.

HPC is in ongoing violation of the substantive and procedural requirements of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 91-13-DWQ, as amended by Order No. 92-12-DWQ, Order No. 97-03-DWQ, and Order 2014-0057-DWQ ("General Permit" or "Permit").¹ On July 1, 2015 the 2015 General Permit went into effect, superseding the 1997 General Permit that was operative between 1997 and June 30, 2015. The 2015 General Permit includes many of the same fundamental requirements and implements many of the same statutory requirements as the 1997 General Permit. Violation of both the 1997 and 2015 General Permit provisions is enforceable under the law. 2015 General Permit, Finding A.6.

¹ HPC submitted a Notice of Intent (NOI) to comply with the General Permit for the Town Facility on or about June 16, 2015.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects HPC to a penalty of up to \$37,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. In addition to civil penalties, CATs will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)) permits prevailing parties to recover costs and fees, including attorneys' fees.

The Clean Water Act requires that sixty (60) days prior to the initiation of a citizen-enforcement action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen enforcer must give notice of its intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the Chief Administrative Officer of the water pollution control agency for the State in which the violations occur. *See* 40 C.F.R. § 135.2. As required by the Act, this letter provides statutory notice of the violations that have occurred, and continue to occur, at the Facility. 40 C.F.R. § 135.3(a). At the expiration of sixty (60) days from the date of this letter, CATs intends to file suit under Section 505(a) of the Act in federal court against HPC for violations of the Clean Water Act and the Permit.

I. Background.

A. The Clean Water Act.

Congress enacted the CWA in 1972 in order to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251. The Act prohibits the discharge of pollutants into United States waters except as authorized by the statute. 33 U.S.C. § 1311; *San Francisco BayKeeper, Inc. v. Tosco Corp.*, 309 F.3d 1153, 1156 (9th Cir. 2002). The Act is administered largely through the NPDES permit program. 33 U.S.C. § 1342. In 1987, the Act was amended to establish a framework for regulating storm water discharges through the NPDES system. Water Quality Act of 1987, Pub. L. 100-4, § 405, 101 Stat. 7, 69 (1987) (codified at 33 U.S.C. § 1342(p)); *see also Env’tl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840-41 (9th Cir. 2003) (describing the problem of storm water runoff and summarizing the Clean Water Act’s permitting scheme). The discharge of pollutants without an NPDES permit, or in violation of a permit, is illegal. *Ecological Rights Found. v. Pacific Lumber Co.*, 230 F.3d 1141, 1145 (9th Cir. 2000).

Much of the responsibility for administering the NPDES permitting system has been delegated to the states. *See* 33 U.S.C. § 1342(b); *see also* Cal. Water Code § 13370 (expressing California’s intent to implement its own NPDES permit program). The CWA authorizes states with approved NPDES permit programs to regulate industrial storm water discharges through individual permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(b). Pursuant to Section 402 of the Act, the Administrator of EPA has authorized California’s State Board to issue individual and general NPDES permits in California. 33 U.S.C. § 1342.

B. California's General Permit for Storm Water Discharges Associated with Industrial Activities

Between 1997 and June 30, 2015, the General Permit in effect was Order No. 97-03-DWQ, which CATs refers to as the "1997 General Permit." On July 1, 2015, pursuant to Order No. 2015-0057-DWQ the General Permit was reissued, including many of the same fundamental terms as the prior permit. For purposes of this notice letter, CATs refers to the reissued permit as the "2015 General Permit." The 2015 General Permit rescinded in whole the 1997 General Permit, except for the expired permit's requirement that annual reports be submitted by July 1, 2015, and for purposes of CWA enforcement. 2015 General Permit, Finding A.6.

Facilities discharging, or having the potential to discharge, storm water associated with industrial activities that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a Notice of Intent to Comply ("NOI"). 1997 General Permit, Provision E.1; 2015 General Permit, Standard Condition XXI.A. Facilities must file their NOIs before the initiation of industrial operations. *Id.* Facilities must strictly comply with all of the terms and conditions of the General Permit. A violation of the General Permit is a violation of the CWA. The General Permit contains three primary and interrelated categories of requirements: (1) discharge prohibitions, receiving water limitations and effluent limitations; (2) Storm Water Pollution Prevention Plan ("SWPPP") requirements; and (3) self-monitoring and reporting requirements.

C. HPC's Eureka Facility

HPC's primary industrial activities at the approximately 8-acre Facility include concrete product manufacturing, wire fabrication and repair, and materials storage. The industrial activities at the Facility fall under Standard Industrial Classification ("SIC") Codes 3272, 3356, and 3496 ("Concrete Products, Except Block and Brick; Rolling, Drawing, and Extruding of Nonferrous Metals, Except Copper and Aluminum; and Miscellaneous Fabricated Wire Products").

HPC collects and discharges storm water associated with industrial activities at the Facility through at least two (2) discharge points into storm water conveyances, which ultimately drain to Humboldt Bay. Humboldt Bay is a water of the United States within the meaning of the Clean Water Act.

The General Permit requires HPC to analyze storm water samples for TSS, pH, and Oil and Grease. 1997 General Permit, Section B.5.c.i; 2015 General Permit, Section XI.B.6. Facilities under SIC Codes 3272, 3356, and 3496 must also analyze storm water samples for Zinc ("Zn"), Nitrate + Nitrite Nitrogen ("N+N"), Iron ("Fe"), Aluminum ("Al"), and Copper ("Cu"). 1997 General Permit, Tables 1-2; 2015 General Permit Tables I and 2.

II. HPC's Violations of the Act and Permit.

Based on its review of available public documents, CATs is informed and believes that HPC is in ongoing violation of both the substantive and procedural requirements of the CWA

and the General Permit. These violations are ongoing and continuous. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, HPC is subject to penalties for violations of the Act since May 23, 2011.

A. HPC Discharges Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Receiving Water Limitations and Effluent Limitations.

HPC's storm water sampling results are evidence of HPC's failure to comply with the General Permit's discharge prohibitions, receiving water limitations and effluent limitations. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

1. Applicable Water Quality Standards.

The General Permit requires that storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance. 1997 General Permit, Discharge Prohibition A.2; 2015 General Permit, Discharge Prohibition III.C. The General Permit also prohibits discharges that violate any discharge prohibition contained in the applicable Regional Water Board's Basin Plan or statewide water quality control plans and policies. 1997 General Permit, Receiving Water Limitation C.2; 2015 General Permit, Discharge Prohibition III.D. Furthermore, storm water discharges and authorized non-storm water discharges shall not adversely impact human health or the environment, and shall not cause or contribute to a violation of any water quality standards in any affected receiving water. 1997 General Permit, Receiving Water Limitations C.1, C.2; 2015 General Permit, Receiving Water Limitations VI.A, VI.B.

Dischargers are also required to prepare and submit documentation to the Regional Board upon determination that storm water discharges are in violation of the General Permit's Receiving Water Limitations. 1997 General Permit, p. VII; 2015 General Permit, Special Condition XX.B. The documentation must describe changes the discharger will make to its current storm water best management practices ("BMPs") in order to prevent or reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. *Id.*

The California Toxics Rule ("CTR") is an applicable water quality standard under the Permit, violation of which is a violation of Permit conditions. *Cal. Sportfishing Prot. Alliance v. Chico Scrap Metal, Inc.*, 2015 U.S. Dist. LEXIS 108314, *21 (E.D. Cal. 2015). CTR establishes numeric receiving water limits for toxic pollutants in California surface waters. 40 C.F.R. § 131.38. The CTR establishes the following numeric limits for pollutants discharged by HPC: Copper – 0.013 mg/L (maximum concentration). The *Water Quality Control Plan for the North Coast Region (Revised May 2011)* ("Basin Plan") also sets forth water quality standards and prohibitions applicable to HPC's storm water discharges. The Basin Plan identifies present and potential beneficial uses for the Humboldt Bay, which include municipal and domestic water

supply, hydropower generation, agricultural supply, industrial service supply, navigation, wildlife habitat, cold freshwater habitat, warm and cold spawning, and contact and non-contact water recreation.

2. Applicable Effluent Limitations.

Dischargers are required to reduce or prevent pollutants in their storm water discharges through implementation of best available technology economically achievable (“BAT”) for toxic and nonconventional pollutants and best conventional pollutant control technology (“BCT”) for conventional pollutants. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. Conventional pollutants include Total Suspended Solids, Oil & Grease, pH, Biochemical Oxygen Demand and Fecal Coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. 40 C.F.R. §§ 401.15-16.

Under the General Permit, benchmark levels established by the EPA (“EPA benchmarks”) serve as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite BAT and BCT. *Santa Monica Baykeeper v. Kramer Metals*, 619 F.Supp.2d 914, 920, 923 (C.D. Cal 2009); Final Reissuance of NPDES Storm Water Multi-Sector General Permit for Industrial Activities, 65 Fed. Reg. 64746, 64766 (Oct. 30, 2000); 1997 General Permit, Effluent Limitations B.5-6; 2015 General Permit, Exceedance Response Action XII.A.

The following EPA benchmarks have been established for pollutants discharged by HPC: Total Suspended Solids – 100 mg/L; Oil & Grease – 15.0 mg/L; Iron – 1.0 mg/L; Aluminum – 0.75 mg/L; Zinc – 0.117 mg/L; Copper – 0.0636 mg/L; and Nitrate + Nitrite – 0.68.

3. HPC’s Storm Water Sample Results

The following discharges of pollutants from the Facility have violated the discharge prohibitions, receiving water limitations and effluent limitations of the Permit:

a. Discharge of Storm Water Containing Iron (Fe) at Concentrations in Excess of Applicable EPA Benchmark Value

| Date | Discharge Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) |
|-----------|-----------------|-----------|-----------------------------------|----------------------------|
| 3/21/16 | STA-2 | Fe | 12.0 | 1.0 |
| 3/14/16 | STA-1 | Fe | 3.7 | 1.0 |
| 1/28/16 | STA-1 | Fe | 2.7 | 1.0 |
| 1/28/16 | STA-2 | Fe | 9.2 | 1.0 |
| 12/3/2015 | STA-2 | Fe | 3.1 | 1.0 |
| 11/24/15 | STA-2 | Fe | 5.9 | 1.0 |
| 3/31/14 | STA-2 | Fe | 3.8 | 1.0 |
| 1/29/14 | STA-2 | Fe | 7.8 | 1.0 |
| 2/19/13 | STA-2 | Fe | 6.4 | 1.0 |

| | | | | |
|----------|-------|----|-----|-----|
| 11/20/12 | STA-1 | Fe | 2.4 | 1.0 |
| 11/8/12 | STA-2 | Fe | 8.2 | 1.0 |
| 3/30/12 | STA-2 | Fe | 4.4 | 1.0 |
| 1/19/12 | STA-1 | Fe | 2.7 | 1.0 |
| 11/17/11 | STA-2 | Fe | 4.9 | 1.0 |

b. Discharge of Storm Water Containing Zinc (Zn) at Concentrations in Excess of Applicable EPA Benchmark and CTR Values

| Date | Discharge Point | Parameter | Concentration in Discharge (mg/L) | EPA Benchmark Value (mg/L) | CTR Criteria (mg/L) |
|-----------|-----------------|-----------|-----------------------------------|----------------------------|---------------------|
| 3/21/16 | STA-2 | Zn | 0.700 | 0.117 | 0.12 |
| 3/14/16 | STA-1 | Zn | 0.140 | 0.117 | 0.12 |
| 1/28/16 | STA-2 | Zn | 0.620 | 0.117 | 0.12 |
| 12/3/2015 | STA-2 | Zn | 0.200 | 0.117 | 0.12 |
| 11/24/15 | STA-2 | Zn | 0.530 | 0.117 | 0.12 |
| 3/31/14 | STA-2 | Zn | 0.34 | 0.117 | 0.12 |
| 1/29/14 | STA-2 | Zn | 0.65 | 0.117 | 0.12 |
| 2/19/13 | STA-2 | Zn | 0.580 | 0.117 | 0.12 |
| 11/8/12 | STA-2 | Zn | 0.770 | 0.117 | 0.12 |
| 3/30/12 | STA-2 | Zn | 0.560 | 0.117 | 0.12 |
| 11/17/11 | STA-2 | Zn | 0.620 | 0.117 | 0.12 |

c. Discharge of Storm Water Containing pH at Concentrations in Excess of The Basin Plan

| Date | Discharge Point | Parameter | Concentration in Discharge (pH units) | Basin Plan Benchmark Value (pH units) |
|----------|-----------------|-----------|---------------------------------------|---------------------------------------|
| 11/20/12 | STA-1 | pH | 9.1 | 6.5 - 8.5 |
| 11/8/12 | STA-2 | pH | 3.0 | 6.5 - 8.5 |
| 1/19/12 | STA-1 | pH | 9.1 | 6.5 - 8.5 |

d. HPC's Sample Results Are Evidence of Violations of the General Permit

HPC's sample results demonstrate violations of the Permit's discharge prohibitions, receiving water limitations and effluent limitations set forth above. CATs is informed and believes that HPC has known that its storm water contains pollutants at levels exceeding General Permit standards since at least May 23, 2011.

CATs alleges that such violations occur each time storm water discharges from the Facility. Attachment A hereto, sets forth the specific rain dates on which CATs alleges that HPC

has discharged storm water containing impermissible levels of Total Suspended Solids, Oil and Grease, Nitrates + Nitrites Nitrogen, Iron, Zinc, Copper and Aluminum, in violation of the General Permit. 1997 General Permit, Discharge Prohibition A.2, Receiving Water Limitations C.1 and C.2; 2015 General Permit, Discharge Prohibitions III.C and III.D, Receiving Water Limitations VI.A, VI.B.

4. HPC Has Failed to Implement BAT and BCT

Dischargers must implement BMPs that fulfill the BAT/BCT requirements of the CWA and the General Permit to reduce or prevent discharges of pollutants in their storm water discharges. 1997 General Permit, Effluent Limitation B.3; 2015 General Permit, Effluent Limitation V.A. To meet the BAT/BCT standard, dischargers must implement minimum BMPs and any advanced BMPs set forth in the General Permit's SWPPP Requirements provisions where necessary to reduce or prevent pollutants in discharges. *See* 1997 General Permit, Sections A.8.a-b; 2015 General Permit, Sections X.H.1-2.

HPC has failed to implement the minimum BMPs required by the General Permit, including: good housekeeping requirements; preventive maintenance requirements; spill and leak prevention and response requirements; material handling and waste management requirements; erosion and sediment controls; employee training and quality assurance; and record keeping. Permit, Section X.H.1(a-g). HPC has further failed to implement advanced BMPs necessary to reduce or prevent discharges of pollutants in its storm water sufficient to meet the BAT/BCT standards, including: exposure minimization BMPs; containment and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs necessary to comply with the General Permit's effluent limitations. 1997 General Permit, Section A.8.b; 2015 General Permit, Sections X.H.2.

Each day that HPC have failed to develop and implement BAT and BCT at the Facility in violation of the General Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). HPC has been in violation of the BAT and BCT requirements at the Facility every day since at least May 23, 2011.

5. HPC Has Failed to Implement an Adequate Monitoring Implementation Plan.

The General Permit requires dischargers to implement a Monitoring Implementation Plan. 1997 General Permit Section B; 2015 General Permit, Section X.I. As part of their monitoring plan, dischargers must identify all storm water discharge locations. 1997 General Permit Section A.4.b; 2015 General Permit, Section X.I.2. Dischargers must then conduct monthly visual observations of each drainage area, as well as visual observations during discharge sampling events. 1997 General Permit Section B.4 and 8; 2015 General Permit, Section XI.A.1 and 2.

Dischargers must collect and analyze storm water samples from two (2) storm events within the first half of each reporting year (July 1 to December 31) and two (2) storm events

during the second half of each reporting year (January 1 to June 3). General Permit, Section XI.B. Section XI.B requires dischargers to sample and analyze during the wet season for basic parameters such as pH, total suspended solids ("TSS") and oil and grease ("O&G"), certain industry-specific parameters set forth in Table 2 of the General Permit, and other pollutants likely to be in the storm water discharged from the facility based on the pollutant source assessment. Permit, Section XI.B.6. Dischargers must submit all sampling and analytical results via SMARTS within thirty (30) days of obtaining all results for each sampling event. Section XI.B.11. HPC has failed to develop and implement an adequate Monitoring Implementation Plan. These failures include: not analyzing samples for the required parameters and using incorrect test methods to analyze certain parameters.

Each day that HPC has failed to develop and implement an adequate Monitoring Implementation Plan is a separate and distinct violation of the Act and Permit. HPC has been in violation of the Monitoring Implementation Plan requirements every day since at least May 23, 2011.

6. HPC Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.

The General Permit requires dischargers to develop and implement a site-specific SWPPP. 1997 General Permit, Section A.1; 2015 General Permit, Section X.A. The SWPPP must include, among other elements: (1) the facility name and contact information; (2) a site map; (3) a list of industrial materials; (4) a description of potential pollution sources; (5) an assessment of potential pollutant sources; (6) minimum BMPs; (7) advanced BMPs, if applicable; (8) a monitoring implementation plan; (9) annual comprehensive facility compliance evaluation; and (10) the date that the SWPPP was initially prepared and the date of each SWPPP amendment, if applicable. *See id.*

Dischargers must revise their SWPPP whenever necessary and certify and submit via the Regional Board's Storm Water Multiple Application and Report Tracking System ("SMARTS") their SWPPP within 30 days whenever the SWPPP contains significant revisions(s); and, certify and submit via SMARTS for any non-significant revisions not more than once every three (3) months in the reporting year. 2015 General Permit, Section X.B; see also 1997 General permit, Section A.

CATs's investigation indicates that HPC has been operating with an inadequately developed or implemented SWPPP in violation of General Permit requirements. HPC has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary, resulting in the Facility's numerous effluent limitation violations.

Each day HPC has failed to develop and implement an adequate SWPPP is a violation of the General Permit. The SWPPP violations described above were at all times in violation of Section A of the 1997 General Permit, and Section X of the 2015 General Permit. HPC has been in violation of these requirements at the Facility every day since at least May 23, 2011.

III. Persons Responsible for the Violations.

CATs puts HPC on notice that they are the persons and entities responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CATs puts HPC on formal notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of each of the noticing parties is as follows:

Patricia Clary, Executive Director
Californians for Alternatives to Toxics
P.O. Box 900
Eureka, CA 95502
(707) 834-4833

V. Counsel.

CATs has retained legal counsel to represent it in this matter. Please direct all communications to:

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VI. Conclusion.

CATs believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the CWA against HPC and their agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Andrew L. Packard
Law Offices of Andrew L. Packard
Counsel for Californians for Alternatives to Toxics

SERVICE LIST

VIA CERTIFIED MAIL

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Matthias St. John, Executive Officer
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ATTACHMENT A
Notice of Intent to File Suit, HPC
Significant Rain Events,* May 23, 2011 – May 23, 2016

| | | | |
|-------------------|-------------------|--------------------|--------------------|
| October 5, 2011 | March 30, 2012 | December 24, 2012 | February 8, 2014 |
| October 6, 2011 | March 31, 2012 | December 25, 2012 | February 9, 2014 |
| October 10, 2011 | April 1, 2012 | December 26, 2012 | February 10, 2014 |
| October 11, 2011 | April 4, 2012 | December 27, 2012 | February 27, 2014 |
| November 3, 2011 | April 5, 2012 | January 10, 2013 | March 3, 2014 |
| November 6, 2011 | April 9, 2012 | January 11, 2013 | March 4, 2014 |
| November 17, 2011 | April 10, 2012 | January 24, 2013 | March 6, 2014 |
| November 18, 2011 | April 11, 2012 | January 26, 2013 | March 9, 2014 |
| November 19, 2011 | April 12, 2012 | January 28, 2013 | March 10, 2014 |
| November 22, 2011 | April 13, 2012 | January 29, 2013 | March 17, 2014 |
| November 23, 2011 | April 17, 2012 | February 7, 2013 | March 25, 2014 |
| November 24, 2011 | April 19, 2012 | February 8, 2013 | March 26, 2014 |
| December 15, 2011 | April 26, 2012 | February 28, 2013 | March 27, 2014 |
| December 26, 2011 | April 27, 2012 | March 6, 2013 | March 29, 2014 |
| December 29, 2011 | May 3, 2012 | March 7, 2013 | April 22, 2014 |
| December 30, 2011 | May 4, 2012 | March 20, 2013 | April 24, 2014 |
| December 31, 2011 | May 25, 2012 | March 21, 2013 | April 25, 2014 |
| January 16, 2012 | June 4, 2012 | March 26, 2013 | May 5, 2014 |
| January 18, 2012 | June 22, 2012 | April 4, 2013 | May 9, 2014 |
| January 19, 2012 | June 23, 2012 | April 5, 2013 | May 10, 2014 |
| January 20, 2012 | July 1, 2012 | April 6, 2013 | June 26, 2014 |
| January 21, 2012 | July 29, 2012 | April 7, 2013 | September 18, 2014 |
| January 22, 2012 | October 16, 2012 | April 8, 2013 | September 24, 2014 |
| January 23, 2012 | October 22, 2012 | May 7, 2013 | September 25, 2014 |
| February 10, 2012 | October 23, 2012 | May 16, 2013 | October 15, 2014 |
| February 11, 2012 | October 24, 2012 | May 22, 2013 | October 18, 2014 |
| February 13, 2012 | October 27, 2012 | May 26, 2013 | October 20, 2014 |
| February 29, 2012 | November 8, 2012 | May 27, 2013 | October 23, 2014 |
| March 1, 2012 | November 9, 2012 | May 28, 2013 | October 24, 2014 |
| March 6, 2012 | November 10, 2012 | May 29, 2013 | October 25, 2014 |
| March 11, 2012 | November 18, 2012 | September 21, 2013 | October 26, 2014 |
| March 13, 2012 | November 19, 2012 | September 25, 2013 | October 31, 2014 |
| March 15, 2012 | November 20, 2012 | September 29, 2013 | November 7, 2014 |
| March 16, 2012 | November 21, 2012 | September 30, 2013 | November 13, 2014 |
| March 17, 2012 | November 28, 2012 | November 2, 2013 | November 15, 2014 |
| March 18, 2012 | November 29, 2012 | November 12, 2013 | November 19, 2014 |
| March 22, 2012 | December 5, 2012 | November 19, 2013 | November 20, 2014 |
| March 24, 2012 | December 12, 2012 | December 3, 2013 | November 21, 2014 |
| March 25, 2012 | December 17, 2012 | January 11, 2014 | November 22, 2014 |
| March 27, 2012 | December 18, 2012 | January 29, 2014 | November 28, 2014 |
| March 28, 2012 | December 22, 2012 | January 30, 2014 | December 3, 2014 |
| March 29, 2012 | December 23, 2012 | February 7, 2014 | December 11, 2014 |
| December 12, 2014 | November 18, 2015 | January 29, 2016 | December 16, 2014 |
| December 13, 2014 | November 20, 2015 | January 30, 2016 | December 17, 2014 |

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

ATTACHMENT A
Notice of Intent to File Suit, HPC
Significant Rain Events,* May 23, 2011 – May 23, 2016

| | | |
|--------------------|-------------------|-------------------|
| December 18, 2014 | December 3, 2015 | February 18, 2016 |
| December 19, 2014 | December 4, 2015 | February 19, 2016 |
| December 20, 2014 | December 6, 2015 | February 27, 2016 |
| December 21, 2014 | December 9, 2015 | March 2, 2016 |
| December 22, 2014 | December 10, 2015 | March 3, 2016 |
| December 25, 2014 | December 11, 2015 | March 5, 2016 |
| December 30, 2014 | December 12, 2015 | March 6, 2016 |
| January 16, 2015 | December 13, 2015 | March 7, 2016 |
| January 18, 2015 | December 14, 2015 | March 9, 2016 |
| February 5, 2015 | December 15, 2015 | March 10, 2016 |
| February 6, 2015 | December 17, 2015 | March 11, 2016 |
| February 7, 2015 | December 18, 2015 | March 12, 2016 |
| February 9, 2015 | December 19, 2015 | March 13, 2016 |
| February 27, 2015 | December 20, 2015 | March 14, 2016 |
| February 28, 2015 | December 21, 2015 | March 15, 2016 |
| March 11, 2015 | December 22, 2015 | March 21, 2016 |
| March 16, 2015 | December 23, 2015 | March 22, 2016 |
| March 21, 2015 | December 24, 2015 | March 23, 2016 |
| March 22, 2015 | December 25, 2015 | March 27, 2016 |
| March 23, 2015 | December 28, 2015 | April 4, 2016 |
| March 24, 2015 | December 30, 2015 | April 14, 2016 |
| March 25, 2015 | January 5, 2016 | April 15, 2016 |
| March 31, 2015 | January 6, 2016 | April 22, 2016 |
| April 6, 2015 | January 8, 2016 | April 23, 2016 |
| April 7, 2015 | January 9, 2016 | April 24, 2016 |
| April 12, 2015 | January 10, 2016 | April 27, 2016 |
| April 14, 2015 | January 12, 2016 | |
| July 9, 2015 | January 13, 2016 | |
| August 29, 2015 | January 14, 2016 | |
| September 17, 2015 | January 15, 2016 | |
| October 17, 2015 | January 16, 2016 | |
| October 20, 2015 | January 17, 2016 | |
| October 28, 2015 | January 18, 2016 | |
| November 1, 2015 | January 19, 2016 | |
| November 2, 2015 | January 22, 2016 | |
| November 8, 2015 | January 23, 2016 | |
| November 9, 2015 | January 24, 2016 | |
| November 15, 2015 | January 25, 2016 | |
| November 16, 2015 | January 28, 2016 | |
| November 24, 2015 | February 2, 2016 | |
| November 25, 2015 | February 4, 2016 | |

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.